

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Registration and Stamps – Surprise check conducted on the Office of District Registrar (Original Branch), Registration & Stamps, Nellore on 20/21.04.2005 - Departmental action initiated against Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.) and others, Office of District Registrar (Original Branch), Registration & Stamps, Nellore – Penalty of 20% cut in pension permanently – Hon'ble High Court orders in W.P. No. 46324 of 2018 – Examined - Reduce the penalty of 20% cut in pension permanently to that of 10% cut in pension permanently - Orders – issued.

REVENUE (VIGILANCE-II) DEPARTMENT

G.O.RT.No. 184

Dated: 25-03-2021.
Read the following:

1. From the DG, ACB, AP, Hyderabad, Lr.No.8/DES-NNL/2005, dt:21.07.2005.
2. Memo No.17783/Vig.VI (1)/2005-4, dated: 02.06.2007.
3. G.O.Ms.No.744, Rev (Vig.VI) Department, dated:02.06.2007.
4. G.O.Ms.No.745, Rev (Vig.VI) Department, dated:02.06.2007.
5. WSD of Smt. N. Vyduryam, Joint Sub Registrar, dt.16.7.2007.
6. G.O.Rt.No.1936, Revenue (Vig.VI) Department,15.10.2008.
7. From the COI, D.O.Lr.No.1962/COI-CK/A1/2009, dt:12.01.2011.
8. Govt. Memo No. 17783/Vig.VI (1)/2005-12, dated:12.03.2012.
9. Representation of Smt. N. Vyduryam, Joint Sub Registrar, dt.12.5.2012
10. Govt. Memo No. 17783/Vig.VI (1)/2005-21, dated:27.03.2014.
11. Representation of Smt. N. Vyduryam, Joint Sub Registrar, dt. .5.2014
12. Govt. Letter No.17783/Vig.II(2)/2005-23, dated:17.10.2014.
13. From the APPSC, Lr.No.1351/RT/2/2015, dt.2.7.2015.
14. G.O.Rt.No.672, Revenue (Vigilance.II)Department, dated:16.07.2015.
15. O.A.No. 6047 of 2015 filed by Smt. N. Vyduryam, Sub Registrar (Retd.) before the Hon'ble APAT
16. W.P. No. 46324 of 2018 filed by Smt. N. Vyduryam, Joint Sub Registrar (Retd.)
17. Representation dated 29.06.2020 of Smt. N. Vyduryam, Joint Sub Registrar (Retd.), D.No.26-27-124, 1st lane, A.T. Agraharam main road, Guntur-4, Andhra Pradesh.

ORDER:

It was brought to the notice of the Government that a surprise check was conducted by the Anti Corruption Bureau officials on the Office of District Registrar (Original Branch), Nellore on 20/21.04.2005 on certain allegations of corruption and found some irregularities and sent report to Government duly recommending to initiate disciplinary action against the staff & officers of the said office.

2. Government after careful examination of the matter initiated common disciplinary proceedings against the staff & officers of the said office vide reference 2nd read above. Articles of charges were issued against Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.), Office of District Registrar (Original Branch), Registration & Stamps, Nellore vide reference 4th read above.

3. In the reference 5th read above, the Charged Officer submitted her Written Statement of Defense. As it was not convincing, Government entrusted the case to Commissioner of Inquiries to enquire into the charges framed against Smt. Vyduryam & others vide reference 6th read above. The Commissioner of Inquiries submitted enquiry report vide reference 7th read above and held that in respect of Charged Officer Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.) was found to be guilty of the charges. A copy of the Inquiry Report was communicated to Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.) for her explanation on the findings of the Inquiry Authority in terms of Rule 21 (2) of APCS (CC&A) Rules, 1991 vide reference 8th read above. The Accused Officer Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.) has submitted her explanation in the reference 9th read above.

(P.T.O)

4. Government after examination of the representation of the Charged Officer, Regular Enquiry Officer report and after going through the material have not convinced with the explanation of the Charged Officer and provisionally decided to impose a penalty of 20% cut in pension permanently against Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.), as the charges are held proved and a Show cause notice was issued for her explanation vide reference 10th read above. The AO submitted her representation vide reference 11th read above. The contentions put forth by the AO are similar to the WSD and explanation submitted in reply to the Show Cause Notice earlier. Hence, Government have decided to confirm the provisional decision i.e to impose a penalty of 20% cut in pension permanently against Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.). The A.P. Public Service Commission, who were consulted, have agreed with the proposal of the Government vide reference 13th read above.

6. Accordingly, Government vide G.O. 14th read above, issued orders imposing a penalty of 20% cut in pension permanently against Smt. N. Vyduryam, former Joint Sub Registrar (Now Retd.), Office of District Registrar (OB), Registration & Stamps, Nellore.

7. Aggrieved by the above penalty, Smt. N. Vyduryam, Sub Registrar (Retd.) filed O.A.No. 6047 of 2015 before the Hon'ble APAT. The Hon'ble APAT in its orders dated 06.10.2018 has passed orders as follows:

".....When it is proved that the applicant was indulging in corrupt activities, imposition of punishment of 20% cut in pension on her permanently cannot be said to be disproportionate or harsh. As per G.O.Ms No. 2, General Administration (Ser.C)Department, dated 04.01.1999, in case of proven bribery and corruption, a delinquent is liable to be punished with dismissal from service or retired from service by the date of imposition of penalty. Since it is not a case of proof of receiving bribery by examining witnesses for demanding and acceptance by the applicant and since it is a case of inference of indulging in corrupt activities by the applicant resulting in possession of unaccounted cash of Rs. 17,450/- in her possession without entering the same in the personal cash declaration register of the office, the Government took a lenient view and imposed lesser punishment of 20% cut in pension of the applicant permanently. This Tribunal does not find that the punishment imposed is in any way disproportionate or harsh."

8. Aggrieved by the above orders, Smt N.Vyduryam, Joint Sub registrar, R.O (O.B), Nellore has filed WP No. 46324/2018 before the Hon'ble High Court with a prayer to suspend the order of the Hon'ble APAT passed in O.A. No. 6047 of 2015 dated, 26.10.2018 by suspending the G.O.Ms No. 672, Revenue(Vig.II)Department, dated 16.07.2015 for disproportionate of quantum of punishment.

9. The Hon'ble High Court is pleased to pass the order in WP No. 46324/2018 on 27.05.2020 as follows:-

" the Writ Petition is allowed, setting aside the order, dated 26.10.2018, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad in Original Application No. 6047 of 2015, and consequently, the order passed by the State Government-first respondent herein in G.O.Rt No. 672, Revenue(Vigilance-II)Department, dated 16.07.2015, is set-aside. The matter is remanded to the State Government-first respondent herein for consideration of the issue afresh and passing appropriate orders, strictly in accordance with law, after considering the explanations/ representations submitted by the petitioner herein. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs."

10. In the representation 17th read above, while enclosing a copy of the orders of the Hon'ble High Court, Smt. N. Vyduryam, Joint Sub Registrar (Retd.), has requested to drop further action in this case.

11. Government have examined the explanation/ representations submitted by Smt. N. Vyduryam, Joint Sub Registrar, findings of the COI with ref to charges as follows in compliance with the directions of the Hon'ble High Court:

Charge No.	Charge (point-wise)	Findings of COI	Explanation/ representations of Smt. N. Vyduram, Joint SR (Retd.)	Reasons to consider the explanation / representation of the CO(Retd.) by Government
1.	That she was in possession of an unaccounted cash of Rs. 17,450/-	Whereas the prosecution has come to the conclusion that the unaccountable amount of Rs.17,450/- could not be explained by CO.4 and it can be surmised that the amount was the bribe amount as collected through private persons and document writers, C.O.4 has denied all the charges. The defence argument is that she forgot to sign the personal cash declaration register and that when the ACB raid took place, she was not on her seat as she went to the toilet. The amount of Rs.10,000/- and odd found below her table does not	It is imaginary and coined to initiate action against her. No excess amount was found with her. The evidence of P.Ws. 1&2 is contradictory regarding the place of recovery. She further stated that on the day of Surprise Check i.e., 20.04.2005, as many as 179 documents were admitted for registration, as such she was very busy with the registration of the said document and the small office room was jam packed with the vendors and vendees. Therefore, the allegation does not merit any consideration.	As regards the unaccounted cash of Rs.17,450/- alleged that the same is with the petitioner Smt. N.Vyduryam, Joint Sub registrar. Her contention is that it is imaginary and that the evidence of prosecution witnesses 1 & 2 is also contradictory and the no excess amount was found with her. There is no concrete evidence that the amount belongs to her. However, it is also observed that the amount might be unaccounted cash. Hence, the contention cannot be fully agreed.
2.	Did not declare personal cash in Personal Cash Register from 11.01.2005 and did not attest the amounts declared by the Office Staff.	belong to her. Even the private persons found in the computer room were not brought by her. At the time of the arrival of the DSP and his team in the office, some of the private persons who came for their work in the registration office ran helter skelter and some of them came to the computer room. The further argument of defence is that it is merely hypothetical on the part of the inquiry officer that private persons and document writers were in attendance for collecting money. Defence has also pointed out that the	Because of pressure of work, she missed to declare her personal cash. Non-declaration of personal cash was only an advertent act and not with any motive or malafied intention and therefore is only a lapse. The Hon'ble Supreme Court in the case of J.Ahamad vs Union of India and others (Civil Appeal No. 2152/1969, dt. 7.03.1979 reported in AIR 1979 Supreme Court 1022) wherein their Lordships observed that, "Lack of efficiency, failure to attain the highest standard of Administrative ability while holding the high post would not	The contention of the petitioner that due to pressure of work, she missed to declare her personal cash and not with any motive or malafied intention and it is only a lapse. The allegation that she did not attest the amount declared by the staff on 11.01.2005 to the date of surprise check i.e. 20.04.2005 appears to be correct and this is treated as proved.

		DSP did not arrange to record any statement from such persons to substantiate his case. Though it is true that the inquiry by the DSP required further documentation namely recording on statements from the private persons who were suspected to be the collection agents for CO4, but there	themselves constitute misconduct". "These deficiencies in personal character or personal ability would not constitute misconduct for the purpose of disciplinary proceedings." "Misconduct means, misconduct arising from ill-motive; acts of negligence, errors of judgment or innocent mistakes do not constitute such misconduct".	
3.	Did not sign in Attendance Register on 20.04.2005.	are strong circumstantial evidences in this case which point the finger towards CO4. The very fact that she did not sign the personal cash declaration register and the unaccounted money found in her handbag and below the table establish illegal collection of gratification. It is possible that when she came to know about the arrival of DSP in the Register's office, she dropped the money below the table and proceeded to toilet, so that she could not be caught red-handed. I equated to misconduct therefore find her guilty of the charges.	Due to heavy rush for registration of documents on 20.04.2005 and the fact that 179 documents were admitted for registration she started attending to the registration of 179 documents with a view to sign the attendance register afterwards and due to pressure of work missed to sign the attendance register. Therefore, non-signing the attendance register on 20.04.2005 is only due to the said reason and not with any malafied intension. Therefore, it is a lapse on her part and the same cannot be equated to misconduct rendering herself liable for Disciplinary Action.	The contention of the petitioner that she could not sign the attendance register on 20.04.2005 may be agreed to as it is only technical lapse as observed by the COI
4.	Did not explain for the shortage of Rs. 500/- found in Government cash.	In the case of both CO4 the charge of not signing the attendance register can be liberally taken, as in the case of others, since this is merely a technical lapse. Findings: On the basis of the discussions as above CO.4, CO.11 and CO3, CO19 are found to be guilty of the charges against them, though the charge of not signing attendance register can be dropped as it is only a technical lapse. So far as the	Rs 500/- was in the table drawer of C.O. 5 and the same was informed by her during surprise check but the same version was not recorded in the Surprise Check proceedings. The C.O. 5 was not present in the registration office at the time of surprise check on 20.04.2005 and his table drawer was seized. Therefore, the averment is contrary to the evidence on record and hence fails.	The amount of Rs.500/- found in the drawer table of CO-5, Joint SR-Nellore. The CO-5 was not in office on the day of surprise check i.e., 20.04.2005. This is agreed to.
5	Engaged private persons to collect illegal gratification from the public	charge of not signing attendance register can be dropped as it is only a technical lapse. So far as the	No evidence was adduced by examining any private persons or document writers to prove the averment. The evidence of PWs 1 & 2	Engaging the private persons in SR offices are being found by the ACB officials during the

	and through document writers.	remaining C.Os are concerned, the charges can be dropped, after a warning as the same are found to be merely technical in nature.	only here say in this regard and therefore, does not merit any consideration. Further, as deposed by P.Ws 1 & 2 none of the private persons stated before them that the staff of registration dept demanded any bribes. Further, the evidence of D.Ws 1 & 2 further disprove this averment. No acceptable evidence is adduced and the charge fails.	surprise checks conducted in many offices. It appears that the private persons might have been engaged by the SR Offices. However, the contention of the appellant is accepted.
6.	Allowed the private persons to work in the office.		No evidence was adduced by examining any private persons who is reported to have worked in the office or no documentary evidence was produced to show that the alleged private persons attended to any official work in the office. The evidence of PWs 1 & 2 only here say in this regard and therefore, does not merit any consideration. Further, the evidence of D.Ws 1 & 2 further disprove this averment. No acceptable evidence is adduced and the charge fails.	The contention of the appellant is not accepted.
7.	Did not supervise the staff of the office and an amount of Rs. 4050 was found abounded under the table of Jr.Sub-Registrar-II.		No evidence was adduced to show that the staff indulged in any irregularities. There was heavy rush for registration of documents and admittedly, when the surprise check party entered the office, there were 23 private persons shown which goes to show the amount of rush during heavy rush of the day time. In fact, no registration of amount was found documents and underneath the table of JSR-II as alleged and produced any the alleged recovery was acceptable the invention of ACB officials to initiate action against her and other staff. The D.A. did not adduce any acceptable evidence put forth by both ACB evidence and hence the charge fails. And she quoted some Hon'ble Court judgments in support of her explanation.	Rs.4050 was found in the table of Joint SR-II. The appellant stated that there was heavy work of registration of documents and there were about 23 private persons shown that there was heavy rush of registration of documents and ACB have not produced any acceptable evidence and it is only the invention of ACB. Therefore evidence put forth by both ACB and appellant no conclusion can be arrived at.

12. In compliance with the orders passed by the Hon'ble High Court of A.P. in W.P. No.46324 of 2018 on dated 27.05.2020, after consideration of the issue afresh and after considering the explanations/ representations submitted by the petitioner Smt. N.Vyduryam, Sub registrar(Retd.) as above, Government have obtained the advice of the competent authority and decided to reduce the penalty of 20% cut in pension permanently to that of 10% cut in pension permanently against the petitioner Smt. N.Vyduryam, Joint Sub registrar (Retired), R.O. (O.B), Nellore. Accordingly, Government hereby order that the penalty of 20% cut in pension permanently imposed against the petitioner Smt. N.Vyduryam, Sub registrar(Retd.) vide G.O.Rt.No.672, Revenue(Vigilance.II) Department, dated 16.07.2015, hereby reduced to that of 10% cut in her monthly pension permanently against the appellant Smt. N.Vyduryam, Joint Sub Registrar (Retired), R.O. (O.B), Nellore in terms of Rule 9 of A.P.Revised Pension Rules,1980.

13. The Inspector General, Registration and Stamps, Andhra Pradesh, Vijayawada / the Deputy Inspector General, Registration and Stamps, Nellore, shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To

Smt. N. Vyduryam, Joint Sub Registrar (Retd.), D.No.26-27-124, 1st lane, A.T. Agraharam main road, Guntur-4, Andhra Pradesh (*through: the Deputy Inspector General, Registration and Stamps, Nellore*)

The Inspector General, Registration and Stamps, AP, Vijayawada.

The Deputy Inspector General, Registration and Stamps, Nellore.

Copy to:

The Secretary to Vigilance Commissioner,

Andhra Pradesh Vigilance Commission, A.P.

The Director General, Anti Corruption Bureau, A.P. Vijayawada.

The Prl. AG (V&E), AP, Hyderabad.

The DTA, A.P., Vijayawada.

The GP for Services, AP High Court, Amaravati.

Sf/Sc.

//FORWARDED :: BY ORDER//

SECTION OFFICER